

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)
)
Bret BERRY) Before the Examiner
) Unassigned
Serial No. New CON Application)
) Group Art Unit 3732
Filed March 3, 2004)
) March 3, 2004
LATERALLY EXPANDABLE)
CAGE)

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March 3, 2004

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Cheryl Kalugyer

Name of Representative

Signature

March 3, 2004

Date of Signature

INFORMATION DISCLOSURE STATEMENT

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the provisions of 37 CFR 1.56, 1.97 and 1.98, Applicant requests consideration of the references listed on attached form PTO-1449 (PTO/SB08A&B) and/or the additional information identified below in paragraph 4. A legible copy of each reference listed on form PTO-1449 is enclosed, except:

☒ a copy is not provided for each reference previously cited by or submitted to the Patent Office in prior parent application Serial No. 10/285,723 and/or

☒ a copy of each U.S. patent and/or U.S. patent application publication is not provided because the present application has been filed or entered the national stage after June 30, 2003 and the Patent Office has waived the requirements of 37 CFR 1.98 (a)(2)(i) for submitting such documents in applications filed or nationalized after June 30, 2003.

1a. ☒ This Information Disclosure Statement is submitted:

within three months of the filing date (or of entry into the National Stage) of the above-entitled application (other than a continued prosecution application), or

before the mailing date of the first Office Action on the merits,

and thus no certification and/or fee is required.

1b. ☐ This Information Disclosure Statement is submitted after the events of above paragraph 1a and prior to the mailing date of a final Office Action or Notice of Allowance, and thus:

(1) ☐ the certification of paragraph 2 below is provided, **or**

(2) ☐ a fee of \$_____ (set forth in 37 CFR §1.17(p)) is enclosed.

1c. ☐ This Information Disclosure Statement is submitted after the mailing date of a final Office Action or Notice of Allowance and prior to payment of the issue fee, and thus:

(1) ☐ **the certification of paragraph 2 below is provided, and
a fee of \$_____ (set forth in 37 CFR §1.17(p)) is enclosed; or**

(2) ☐ a Request for Continued Examination (RCE) has been filed.

2. It is hereby certified

a. ☐ that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement, or

b. ☐ that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

c. ☐ A copy of a dated communication from a foreign patent office which clearly shows the statement is being submitted within three (3) months of the date on the communication is enclosed.

3. ☐ A copy of a Search Report or Written Opinion from a foreign patent office is enclosed.

4. ☐ Consideration of the following additional information (including any copending or abandoned U.S. application, prior uses and/or sales, etc.) is requested.

5. For each non-English language reference listed on the attached form PTO-1449, reference is made to:

a. ☐ an English language translation submitted herewith,

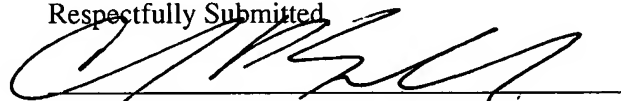
b. ☐ a foreign patent office search report (in the English language) submitted herewith,

- c. ☐ an English language translation of a foreign patent office search report submitted herewith,
- d. ☐ the concise explanation contained in the specification of the present application at page[^]s _____,
- e. ☐ the concise explanation set forth in the attached English language abstract,
- f. ☐ a copy of a related patent publication (in the English language) submitted herewith,
- g. ☐ the concise explanation set forth below:

The filing of this Information Disclosure Statement shall not be construed as an admission that the information cited is, or is considered to be, material to patentability as defined in §1.56(b).

It is believed that no additional fees are required. Should any other fee be required, however, please charge such fee to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Respectfully Submitted



Charles P. Schmal, Reg. No. 45,082
Woodard, Emhardt, Moriarty, McNett &
Henry LLP

Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
(317) 634-3456

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Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 2

Complete if Known

Application Number	New CON Application
Filing Date	March 3, 2003
First Named Inventor	Bret BERRY
Group Art Unit	3732
Examiner Name	Unassigned
Attorney Docket Number	4002-3484

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
		6,478,823	11-12-2002	Michelson	
		6,468,311	10-22-2002	Boyd et al.	
		6,451,057	09-17-2002	Chen et al.	
		6,419,705	07-16-2003	Erickson	
		6,206,923	03-27-2001	Boyd et al.	
		6,193,757	02-27-2001	Foley et al.	
		6,190,414	02-20-2003	Young et al.	
		6,176,882	01-23-2001	Biedermann et al.	
		6,110,210	08-29-2000	Norton et al.	
		6,080,193	06-27-2000	Hochshuler et al.	
		6,039,761	03-21-2000	Li et al.	
		6,008,431	12-28-1999	Caldarise et al.	
		5,693,100	12-02-1997	Pisharodi	
		5,653,763	08-05-1997	Errico et al.	
		5,554,191	09-10-1996	Lahille et al.	
		5,397,364	03-14-1995	Kozak et al.	
		5,336,223	08-09-1994	Rogers	
		4,863,476	09-05-1989	Shepperd	

Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				
		WO 97/00054	01-03-1997	Olerud		

Examiner
SignatureDate
Considered

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

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Substitute for form 1449A/PTO

(use as many sheets as necessary)

Sheet	2	of	2
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Application Number	New CON Application
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Filing Date	March 3, 2003
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First Named Inventor	Bret BERRY
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Group Art Unit	3732
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Examiner Name	Unassigned
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Attorney Docket Number	4002-3484
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[illegible][illegible]

Examiner Signature		Date Considered	
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